

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 612

To amend title 38, United States Code, to provide for a hospice care pilot program for the Department of Veterans Affairs.

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## IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, MARCH 23), 1995

Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. GRAHAM, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to provide for a hospice care pilot program for the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans’ Hospice  
5 Care Services Act of 1995”.

1 **SEC. 2. PROGRAMS FOR FURNISHING HOSPICE CARE TO**  
 2 **VETERANS.**

3 (a) ESTABLISHMENT OF PROGRAMS.—Chapter 17 of  
 4 title 38, United States Code, is amended by adding at the  
 5 end the following:

6 “SUBCHAPTER VII—HOSPICE CARE PILOT PROGRAM;

7 HOSPICE CARE SERVICES

8 **“§ 1761. Definitions**

9 “For the purposes of this subchapter—

10 “(1) The term ‘terminally ill veteran’ means  
 11 any veteran—

12 “(A) who is (i) entitled to receive hospital  
 13 care in a medical facility of the Department  
 14 under section 1710(a)(1) of this title, (ii) eligi-  
 15 ble for hospital or nursing home care in such a  
 16 facility and receiving such care, (iii) receiving  
 17 care in a State home facility for which care the  
 18 Secretary is paying per diem under section  
 19 1741 of this title, or (iv) transferred to a non-  
 20 Department nursing home for nursing home  
 21 care under section 1720 of this title and receiv-  
 22 ing such care; and

23 “(B) who has a medical prognosis (as cer-  
 24 tified by a Department physician) of a life ex-  
 25 pectancy of six months or less.

26 “(2) The term ‘hospice care services’ means—

1           “(A) the care, items, and services referred  
2           to in subparagraphs (A) through (H) of section  
3           1861(dd)(1) of the Social Security Act (42  
4           U.S.C. 1395x(dd)(1)); and

5           “(B) personal care services.

6           “(3) The term ‘hospice program’ means any  
7           program that satisfies the requirements of section  
8           1861(dd)(2) of the Social Security Act (42 U.S.C.  
9           1395x(dd)(2)).

10          “(4) The term ‘medical facility of the Depart-  
11          ment’ means a facility referred to in section  
12          1701(4)(A) of this title.

13          “(5) The term ‘non-Department facility’ means  
14          a facility (other than a medical facility of the De-  
15          partment) at which care to terminally ill veterans is  
16          furnished, regardless of whether such care is fur-  
17          nished pursuant to a contract, agreement, or other  
18          arrangement referred to in section 1762(b)(1)(D) of  
19          this title.

20          “(6) The term ‘personal care services’ means  
21          any care or service furnished to a person that is nec-  
22          essary to maintain a person’s health and safety  
23          within the home or nursing home of the person, in-  
24          cluding care or services related to dressing and per-

1       sonal hygiene, feeding and nutrition, and environ-  
2       mental support.

3       **“§ 1762. Hospice care: pilot program requirements**

4       “(a)(1) During the period beginning on October 1,  
5       1995, and ending on December 31, 2000, the Secretary  
6       shall conduct a pilot program in order—

7               “(A) to assess the desirability of furnishing hos-  
8       pice care services to terminally ill veterans; and

9               “(B) to determine the most effective and effi-  
10      cient means of furnishing such services to such vet-  
11      erans.

12      “(2) The Secretary shall conduct the pilot program  
13      in accordance with this section.

14      “(b)(1) Under the pilot program, the Secretary  
15      shall—

16              “(A) designate not less than 15 nor more than  
17      30 medical facilities of the Department at or  
18      through which to conduct hospice care services dem-  
19      onstration projects;

20              “(B) designate the means by which hospice care  
21      services shall be provided to terminally ill veterans  
22      under each demonstration project pursuant to sub-  
23      section (c);

24              “(C) allocate such personnel and other re-  
25      sources of the Department as the Secretary consid-

1       ers necessary to ensure that services are provided to  
2       terminally ill veterans by the designated means  
3       under each demonstration project; and

4               “(D) enter into any contract, agreement, or  
5       other arrangement that the Secretary considers nec-  
6       essary to ensure the provision of such services by the  
7       designated means under each such project.

8       “(2) In carrying out the responsibilities referred to  
9       in paragraph (1) the Secretary shall take into account the  
10      need to provide for and conduct the demonstration  
11      projects so as to provide the Secretary with such informa-  
12      tion as is necessary for the Secretary to evaluate and as-  
13      sess the furnishing of hospice care services to terminally  
14      ill veterans by a variety of means and in a variety of cir-  
15      cumstances.

16      “(3) In carrying out the requirement described in  
17      paragraph (2), the Secretary shall, to the maximum extent  
18      feasible, ensure that—

19               “(A) the medical facilities of the Department  
20      selected to conduct demonstration projects under the  
21      pilot program include facilities located in urban  
22      areas of the United States and rural areas of the  
23      United States;

24               “(B) the full range of affiliations between medi-  
25      cal facilities of the Department and medical schools

1 is represented by the facilities selected to conduct  
2 demonstration projects under the pilot program, in-  
3 cluding no affiliation, minimal affiliation, and exten-  
4 sive affiliation;

5 “(C) such facilities vary in the number of beds  
6 that they operate and maintain; and

7 “(D) the demonstration projects are located or  
8 conducted in accordance with any other criteria or  
9 standards that the Secretary considers relevant or  
10 necessary to furnish and to evaluate and assess fully  
11 the furnishing of hospice care services to terminally  
12 ill veterans.

13 “(c)(1) Subject to paragraph (2), hospice care to ter-  
14 minally ill veterans shall be furnished under a demonstra-  
15 tion project by one or more of the following means des-  
16 ignated by the Secretary:

17 “(A) By the personnel of a medical facility of  
18 the Department providing hospice care services pur-  
19 suant to a hospice program established by the Sec-  
20 retary at that facility.

21 “(B) By a hospice program providing hospice  
22 care services under a contract with that program  
23 and pursuant to which contract any necessary inpa-  
24 tient services are provided at a medical facility of  
25 the Department.

1           “(C) By a hospice program providing hospice  
2       care services under a contract with that program  
3       and pursuant to which contract any necessary inpa-  
4       tient services are provided at a non-Department  
5       medical facility.

6       “(2)(A) The Secretary shall provide that—

7           “(i) care is furnished by the means described in  
8       paragraph (1)(A) at not less than five medical facili-  
9       ties of the Department; and

10          “(ii) care is furnished by the means described  
11       in subparagraphs (B) and (C) of paragraph (1) in  
12       connection with not less than five such facilities for  
13       each such means.

14       “(B) The Secretary shall provide in any contract  
15   under subparagraph (B) or (C) of paragraph (1) that in-  
16   patient care may be provided to terminally ill veterans at  
17   a medical facility other than that designated in the con-  
18   tract if the provision of such care at such other facility  
19   is necessary under the circumstances.

20       “(d)(1) Except as provided in paragraph (2), the  
21   amount paid to a hospice program for care furnished pur-  
22   suant to subparagraph (B) or (C) of subsection (c)(1) may  
23   not exceed the amount that would be paid to that program  
24   for such care under section 1814(i) of the Social Security  
25   Act (42 U.S.C. 1395f(i)) if such care were hospice care

1 for which payment would be made under part A of title  
2 XVIII of such Act.

3 “(2) The Secretary may pay an amount in excess of  
4 the amount referred to in paragraph (1) (or furnish serv-  
5 ices whose value, together with any payment by the Sec-  
6 retary, exceeds such amount) to a hospice program for  
7 furnishing care to a terminally ill veteran pursuant to sub-  
8 paragraph (B) or (C) of subsection (c)(1) if the Secretary  
9 determines, on a case-by-case basis, that—

10 “(A) the furnishing of such care to the veteran  
11 is necessary and appropriate; and

12 “(B) the amount that would be paid to that  
13 program under section 1814(i) of the Social Security  
14 Act would not compensate the program for the cost  
15 of furnishing such care.

16 **“§ 1763. Care for terminally ill veterans**

17 “(a) During the period referred to in section  
18 1762(a)(1) of this title, the Secretary shall designate not  
19 less than 10 medical facilities of the Department at which  
20 hospital care is being furnished to terminally ill veterans  
21 in order to furnish the care referred to in subsection  
22 (b)(1).

23 “(b)(1) Palliative care to terminally ill veterans shall  
24 be furnished at the facilities referred to in subsection (a)  
25 by one of the following means designated by the Secretary:



1           “(A) By personnel of the Department providing  
2           one or more hospice care services to such veterans  
3           at or through medical facilities of the Department.

4           “(B) By personnel of the Department monitor-  
5           ing the furnishing of one or more of such services  
6           to such veterans at or through non-Department fa-  
7           cilities.

8           “(2) The Secretary shall furnish care by the means  
9           referred to in each of subparagraphs (A) and (B) of para-  
10          graph (1) at not less than five medical facilities designated  
11          under subsection (a).

12       **“§ 1764. Information relating to hospice care services**

13           “The Secretary shall ensure to the extent practicable  
14          that terminally ill veterans who have been informed of  
15          their medical prognosis receive information relating to the  
16          eligibility, if any, of such veterans for hospice care and  
17          services under title XVIII of the Social Security Act (42  
18          U.S.C. 1395 et seq.).

19       **“§ 1765. Evaluation and reports**

20           “(a) Not later than September 30, 1996, and on an  
21          annual basis thereafter until October 1, 2001, the Sec-  
22          retary shall submit a written report to the Committees on  
23          Veterans’ Affairs of the Senate and House of Representa-  
24          tives relating to the conduct of the pilot program under  
25          section 1762 of this title and the furnishing of hospice

1 care services under section 1763 of this title. Each report  
2 shall include the following information:

3 “(1) The location of the sites of the demonstra-  
4 tion projects provided for under the pilot program.

5 “(2) The location of the medical facilities of the  
6 Department at or through which hospice care serv-  
7 ices are being furnished under section 1763 of this  
8 title.

9 “(3) The means by which care to terminally ill  
10 veterans is being furnished under each such project  
11 and at or through each such facility.

12 “(4) The number of veterans being furnished  
13 such care under each such project and at or through  
14 each such facility.

15 “(5) An assessment by the Secretary of any dif-  
16 ficulties in furnishing such care and the actions  
17 taken to resolve such difficulties.

18 “(b) Not later than August 1, 1999, the Secretary  
19 shall submit to the committees referred to in subsection  
20 (a) a report containing an evaluation and assessment by  
21 the Under Secretary for Health of the hospice care pilot  
22 program under section 1762 of this title and the furnish-  
23 ing of hospice care services under section 1763 of this  
24 title. The report shall contain such information (and shall  
25 be presented in such form) as will enable the committees

1 to evaluate fully the desirability of furnishing hospice care  
2 services to terminally ill veterans.

3 “(c) The report under subsection (b) shall include the  
4 following:

5 “(1) A description and summary of the pilot  
6 program.

7 “(2) With respect to each demonstration project  
8 conducted under the pilot program—

9 “(A) a description and summary of the  
10 project;

11 “(B) a description of the facility conduct-  
12 ing the demonstration project and a discussion  
13 of how such facility was selected in accordance  
14 with the criteria set out in, or prescribed by the  
15 Secretary pursuant to, subparagraphs (A)  
16 through (D) of section 1762(b)(3) of this title;

17 “(C) the means by which hospice care serv-  
18 ices care are being furnished to terminally ill  
19 veterans under the demonstration project;

20 “(D) the personnel used to furnish such  
21 services under the demonstration project;

22 “(E) a detailed factual analysis with re-  
23 spect to the furnishing of such services, includ-  
24 ing (i) the number of veterans being furnished  
25 such services, (ii) the number, if any, of inpa-

1           tient admissions for each veteran being fur-  
2           nished such services and the length of stay for  
3           each such admission, (iii) the number, if any, of  
4           outpatient visits for each such veteran, and (iv)  
5           the number, if any, of home-care visits provided  
6           to each such veteran;

7           “(F) the direct costs, if any, incurred by  
8           terminally ill veterans, the members of the fam-  
9           ilies of such veterans, and other individuals in  
10          close relationships with such veterans in connec-  
11          tion with the participation of veterans in the  
12          demonstration project;

13          “(G) the costs incurred by the Department  
14          in conducting the demonstration project, includ-  
15          ing an analysis of the costs, if any, of the dem-  
16          onstration project that are attributable to (i)  
17          furnishing such services in facilities of the De-  
18          partment, (ii) furnishing such services in non-  
19          Department facilities, and (iii) administering  
20          the furnishing of such services; and

21          “(H) the unreimbursed costs, if any, in-  
22          curred by any other entity in furnishing services  
23          to terminally ill veterans under the project pur-  
24          suant to section 1762(c)(1)(C) of this title.

1           “(3) An analysis of the level of the following  
2           persons’ satisfaction with the services furnished to  
3           terminally ill veterans under each demonstration  
4           project:

5                   “(A) Terminally ill veterans who receive  
6                   such services, members of the families of such  
7                   veterans, and other individuals in close relation-  
8                   ships with such veterans.

9                   “(B) Personnel of the Department respon-  
10                  sible for furnishing such services under the  
11                  project.

12                  “(C) Personnel of non-Department facili-  
13                  ties responsible for furnishing such services  
14                  under the project.

15           “(4) A description and summary of the means  
16           of furnishing hospice care services at or through  
17           each medical facility of the Department designated  
18           under section 1763(a)(1) of this title.

19           “(5) With respect to each such means, the in-  
20           formation referred to in paragraphs (2) and (3).

21           “(6) A comparative analysis by the Under Sec-  
22           retary for Health of the services furnished to termi-  
23           nally ill veterans under the various demonstration  
24           projects referred to in section 1762 of this title and  
25           at or through the designated facilities referred to in

1 section 1763 of this title, with an emphasis in such  
2 analysis on a comparison relating to—

3 “(A) the management of pain and health  
4 symptoms of terminally ill veterans by such  
5 projects and facilities;

6 “(B) the number of inpatient admissions  
7 of such veterans and the length of inpatient  
8 stays for such admissions under such projects  
9 and facilities;

10 “(C) the number and type of medical pro-  
11 cedures employed with respect to such veterans  
12 by such projects and facilities; and

13 “(D) the effectiveness of such projects and  
14 facilities in providing care to such veterans at  
15 the homes of such veterans or in nursing  
16 homes.

17 “(7) An assessment by the Under Secretary for  
18 Health of the desirability of furnishing hospice care  
19 services by various means to terminally ill veterans,  
20 including an assessment by the Director of the opti-  
21 mal means of furnishing such services to such veter-  
22 ans.

23 “(8) Any recommendations for additional legis-  
24 lation regarding the furnishing of care to terminally

1 ill veterans that the Secretary considers appro-  
 2 priate.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
 4 at the beginning of such chapter is amended by adding  
 5 at the end the following:

“SUBCHAPTER VII—HOSPICE CARE PILOT PROGRAM; HOSPICE CARE SERVICES

“1761. Definitions.

“1762. Hospice care: pilot program requirements.

“1763. Care for terminally ill veterans.

“1764. Information relating to hospice care services.

“1765. Evaluation and reports.”.

6 (c) AUTHORITY TO CARRY OUT OTHER HOSPICE  
 7 CARE PROGRAMS.—The amendments made by subsection  
 8 (a) may not be construed as terminating the authority of  
 9 the Secretary of Veterans Affairs to provide hospice care  
 10 services to terminally ill veterans under any program in  
 11 addition to the programs required under the provisions  
 12 added by such amendments.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—Funds  
 14 are authorized to be appropriated for the Department of  
 15 Veterans Affairs for the purposes of carrying out the eval-  
 16 uation of the hospice care pilot programs under section  
 17 1765 of title 38, United States Code (as added by sub-  
 18 section (a)), as follows:

19 (1) For fiscal year 1996, \$1,200,000.

20 (2) For fiscal year 1997, \$2,500,000.

21 (3) For fiscal year 1998, \$2,200,000.

1 (4) For fiscal year 1999, \$100,000.

